

## § 530.206

of a violation of the Act to the employer, the Department or other appropriate authority, or (2) any action which furthers the enforcement of or compliance with the Act, such as giving information to a Wage and Hour compliance officer.

### § 530.206 Special circumstances.

At the discretion of the Administrator, a certificate need not be denied or revoked pursuant to §§ 530.204 or 530.205 of this subpart if the Administrator finds all of the following:

(a) The certificate holder, despite the exercise of due care, did not know and did not have reason to know of the violations;

(b) All back wages and civil money penalties found by the Administrator to be owing by the certificate holder have been paid; and

(c) The certificate holder has taken appropriate steps to prevent recurrence of the violations.

## Subpart D—Civil Money Penalties

SOURCE: 53 FR 45724, Nov. 10, 1988, unless otherwise noted.

### § 530.301 General.

A system of civil money penalties is established to provide a remedy for any violation of the FLSA related to homework (except child labor violations, which are subject to civil money penalties pursuant to part 579 of this chapter), or for any violation of the homeworke regulations or employers' assurances pursuant to this part, which are not so serious as to warrant denial or revocation of a certificate. Accordingly, no civil money penalty will be assessed for conduct which serves as the basis of proposed denial or revocation of a certificate. (See subpart C of this part.) Civil money penalties will be assessed only against employers who are operating under a certificate or who are seeking certification.

### § 530.302 Amounts of civil money penalties.

(a) A civil money penalty, not to exceed \$500 per affected homeworke for any one violation, may be assessed for any violation of the Act or of this part

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or of the assurances given in connection with the issuance of a certificate.

(b) The amount of civil money penalties shall be determined per affected homeworke within the limits set forth in the following schedule, except that no penalty shall be assessed in the case of violations which are deemed to be *de minimis* in nature:

Nature of violation	Penalty per affected homeworke		
	Minor	Substantial	Repeated, intentional or knowing
Recordkeeping .....	\$10–100	\$100–200	\$200–500
Monetary violations .....	10–100	100–200	.....
Employment of homeworke without a certificate .....	.....	100–200	200–500
Other violations of statutes, regulations or employer assurances .....	10–100	100–200	200–500

### § 530.303 Considerations in determining amounts.

(a) In determining the amount of a penalty within any range, the Administrator shall take into account the presence or absence of circumstances such as the following:

(1) Good faith attempts to comply with the Act or regulations;

(2) Extent to which the violation is under the employer's control;

(3) Non-culpable ignorance of the requirements of the Act or regulations;

(4) False documents or representations; and

(5) Exercise of due care.

(b) An employer's financial inability to meet obligations under the Act shall not constitute a mitigating or extenuating circumstance.

(c) No civil money penalty shall be assessed against an employer, who applies for a certificate, solely for employing homeworke, provided the employer is not currently under investigation by the Wage and Hour Division.

### § 530.304 Procedures for assessment.

Assessment of penalties pursuant to this section, including administrative proceedings, shall be in accordance with the procedures set out in subpart E of this part.